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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,583	10/08/2004	Norbert Auner	WAS0662PUSA	1904
22045	7590	10/16/2006	EXAMINER NWAONICHA, CHUKWUMA O	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			ART UNIT 1621	PAPER NUMBER

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/510,583	AUNER, NORBERT	
	Examiner Chukwuma O. Nwaonicha	Art Unit 1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 August 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 24-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 24-55 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

### ***Current Status***

1. This action is responsive to Applicants' amendment of 18 August 2006.
2. Receipt and entry of Applicants' amendment is acknowledged.
3. Claims 24-55 are pending in the application.
4. The rejection of claims 24-53 under 35 U.S.C. 103 as being unpatentable over Lewis et al., {6,528,674 same as WO 2001081354} for the reasons set forth in the previous Office Action of 5/15/06 is withdrawn because the prior art does not teach a process wherein a microwave is employed.
5. The rejection of claims 24-53 under 35 U.S.C. 103 as being unpatentable over Griesshammer et al., {CN 1153138} for the reasons set forth in the previous Office Action of 5/15/06 is maintained.

Applicants' amendments filed 18 August 2006 have been fully considered but they are not persuasive because Griesshammer et al. teach a process of producing trichlorosilane comprises reducing tetrachlorosilane in a fluidised bed reactor containing Si particles, in which a reaction gas containing H<sub>2</sub> and tetrachlorosilane is passed through the fluidised bed to react with the Si particles and produce a product gas containing trichlorosilane. The novelty is that the Si particles are heated by microwaves to 300-1100°C. See reaction step below.



However, Applicants' argument, presented on pages 11-12 that Griesshammer et al. do not employ the same reactants at all, as are employed in the direct synthesis.

Applicants further argue that Griesshammer et al. employ no alkyl halide. Applicants point out that Griesshammer et al. also employ hydrogen, which is absent in the direct process, and uses a tetrachlorosilane reactant, also absent in the direct synthesis. Applicants contend that the direct process is an oxidation and is highly exothermic while Griesshammer et al.s' process is a reduction. Applicants' argument is not persuasive. The Examiner notes that replacing one starting material in a chemical reaction with another starting material is a well-known technique in a chemical synthesis to optimize the efficiency of the system and does not constitute a patentable distinction. Griesshammer et al. teach the elements of the claimed invention with sufficient guidance, particularity, and with a reasonable expectation of success, that the invention would be *prima facie* obvious to one of ordinary skill in the art.

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chukwuma O. Nwaonicha whose telephone number is 571-272-2908. The examiner can normally be reached on Monday thru Friday, 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman k. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chukwuma O. Nwaonicha, Ph.D.

Patent Examiner

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